

## **ON TRACK WITH MDT**

*January 2002*

Like other organizations, MDT has many dedicated employees and divisions working behind the scenes to make our programs (and roads) the best they can be. Oftentimes, these folks work tirelessly without the public or our partners knowing what they're doing. My goal is to change that by discussing some of the more intricate facets of our department over the next several months. Specifically, I'd like to talk about MDT's civil rights and disadvantaged business enterprise (DBE) programs in light of the regulations that govern them.

The history of MDT's civil rights bureau is more detailed than this space allows for, so I'm not going to spend a lot of time on that. What's important to know is that this unit was founded to meet federal civil rights regulatory requirements, including those stipulated in Title VI, Title VII, the Americans with Disabilities Act, TEA 21 and so forth. The efforts our civil rights staff undertake are based on the requirements in these and other civil rights regulations, and MDT undergoes periodic management reviews by the Federal Highway Administration (FHWA) to evaluate the effectiveness of our programs. When a deficiency is noted, we must correct it, for part of our federal funding is contingent upon meeting these civil rights regulatory requirements.

This was especially evident when the civil rights bureau underwent a week-long management review in November 2001. Willie Harris of FHWA's Western Regional Office concluded that MDT continues to meet all federal civil rights regulatory requirements, and he acknowledged individual staff for their roles in making that happen. Harris did note one major deficiency with internal training statistics, and MDT has taken steps to correct that problem. Frankly, MDT's civil rights staff have done a tremendous job managing our program, and the FHWA representative saw that. What I want now is for our public and partners to see this as well, and the best way for that to happen is to talk about programs that are of special interest to you.

MDT has begun doing that by meeting with representatives from FHWA and the Montana Contractors Association regarding one facet of our civil rights bureau, the disadvantaged business enterprise (DBE) program. While complex, the DBE program has two highly public functions: 1) it certifies construction businesses owned by minorities, females and other socially/economically disadvantaged individuals, and 2) it monitors the bidding and construction process to ensure that the mandated percentage of work goes to these disadvantaged enterprises. Like our other civil rights efforts, the DBE program is a federally mandated program, and our staff's job is to ensure that those regulations are met. Our job

is made more challenging by the fact that the regulations for parts of the program are lengthy and hard to define. Given that, we've made a commitment to help clarify and interpret those regulations, and we will do everything possible to make that happen.

To start with, MDT has involved the contractors in setting our annual DBE goal and in discussing how to track DBE participation throughout the life of the project. Our staff, however, still encounter contractor frustration over DBE requirements, hearing comments such as, "I can do that cheaper than I can hire a DBE contractor to do it." Frankly, statements like that go against the very foundation of the program.

Specifically, DBE's good faith efforts requirements state that, during the bidding process, bidders must either 1) get enough participation to meet the DBE goal for that contract, or 2) make a good faith effort to meet that goal. These goals are not numbers plucked out of the air; rather, they are percentages set according to specific formulas in TEA 21, and they reflect the number of DBEs ready, willing and able to do the work specified. I don't know whether the prime contractor may be able to do the work for less than he can hire a DBE to do it – that is not the issue. The real issue is meeting our joint civil rights obligations, for that is the only way we can build and maintain effective programs and roads. I realize that I am talking about a change in perspective again. It's an idea I've been discussing for months and one I will continue to bring up, for I see it as crucial to the success of our state. I know that we have some serious issues to address, but I am confident that we can and will do so, and I ask your help in making that happen. Quality is a more than just a word to me; the pursuit of it is my passion. I hope that it is yours as well.

Happy New Year, and thanks for staying "on track" with MDT!

Dave Galt  
Director